

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 14177 of 2007(K)

PETITIONER:

MANIKANTAN, AGED 44 YEARS,
S/O. MADHAVAN PILLAI, PHYSICAL EDUCATION TEACHER,
N.S.S.H.F., MALLOORKKARA, THRISSUR RESIDING AT
KALLUVIOLA VEEDU, PAZHANGALAM, NALLILA P.O.,
KOLLAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS:

1. KERALA STATE FINANCIAL ENTERPRISES LTD.
BHADRATHA, MUSEUM ROAD, THRISSUR. REPRESENTED BY
ITS GENERAL MANAGER.
2. THE DISTRICT MANAGER,
OFFICE OF THE KERALA STATE FINANCIAL ENTERPRISES
LTD., CHINNAKKADA, KOLLAM - 691 001.
3. THE DEPUTY TAHASILDAR (R.R),
OFFICE OF THE KERALA STATE FINANCIAL ENTERPRISES
LTD., CHINNAKKADA, KOLLAM - 691 001.
4. THE HEAD MISTRESS, N.S.S.H.F.,
MALLOORKKARA, THRISSUR.
5. KANCHANA DEVI, D/O. BHARGAVI AMMA,
KRISHNATHUMADAM, KUZHIYAM SOUTH, CHANDANATHOPPU,
KOLLAM.
6. SETHUKUMAR, VILLAGE MAN,
TALUK OFFICE, KOLLAM, SREYAS, KATCHERI JUNCTION,
MULAVANA, KOLLAM.

BY ADV. SRI.ASOK M.CHERIYAN, SC, K.S.F.E. LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE LETTER DTD.7.6.2006.

EXT.P2 TRUE COPY OF THE RECEIPT DTD.19.3.2007.

TRUE COPY

P.A.TO JUDGE

C.N.RAMACHANDRAN NAIR,J

W.P.(C) NO.14177 of 2007

Dated this the 3rd day of July, 2007

JUDGMENT

The question that arises for consideration is whether the recovery of debt by attachment of salary of the petitioner can be in excess of the limits provided under Section 60(1)(i) of the CPC. The petitioner has relied on the decision of this court reported in **Bhargavan Pillai v Special Deputy Tahsildar** (2003(3) KLT 753) in support of his contention that the recovery cannot be in excess of the limits provided under Section 60(1)(i) of the CPC read with Section 80 of the Revenue Recovery Act. On the other hand, the counsel for the respondents relied on the Division Bench decision of this Court in **Sukumaran v KSRTC** reported in (2002(3) KLT 169) where under this Court has held that Section 60(i) of the CPC is not applicable for recovery against the surety. However, surprisingly, the Division Bench has not referred to Section 80 of the Revenue Recovery Act which incorporates Section 60(1)(i) of the CPC. Therefore, I am unable to follow the Division Bench judgment. It is admitted that recovery proceedings against the petitioner is initiated under the Revenue

Recovery Act. Therefore I do not find any justification for permitting with the recovery in violation of Section 80 of the Revenue Recovery Act. The purpose of Section 80 obviously is to provide to preserve a minimum to the employees for his livelihood. Though the counsel for the first respondent produced an agreement authorising the employer to attach petitioner's salary, the said agreement though signed is blank on terms and conditions. In other words, there is no authorisation for recovering specific amounts from the petitioner's salary. I, therefore, do not find this agreement authorising recovery in violation of the statutory provisions which is based on a sound principle that every employee should be left with minimum to sustain his livelihood.

The writ Petition is therefore allowed directing the respondents to limit the attachment subject to the limits prescribed under Section 60 (1)(i) of the CPC read with Section 80 of the Revenue Recovery Act.

**C.N.RAMACHANDRAN NAIR,
JUDGE**

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